UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,137	12/15/2003	Yoshikazu Kawamoto	1341.1165	9242

21171 7590 04/01/2008
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
AU, GARY	

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
04/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/734,137	KAWAMOTO, YOSHIKAZU	
	Examiner	Art Unit	
	Gary Au	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 December 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/25/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claim 6 is objected to because of the following informalities:

Claim 6 recites "the second light wave" on line 2 which second has been taken off from the independent claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 7-11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 7,142,877 (Lipovski) and further in view of admitted prior art.

Considering claim 7 and 21, Lipovski teaches a portable communication apparatus (restricted device 101 – figure 1, col. 2 lines 20-49) and method, comprising: inherently teaches a radio communication unit that performs communication over a radio wave (restricted device 101 – figure 1, col. 2 lines 20-49 and col. 1 lines 45-54,

where the restricted device has to have a radio communication unit to receive radio wave); inherently teaches a detection unit that performs communication over a light wave, that is not a radio wave, having a predetermined frequency in a predetermined area (control signal 102 – figure 1, col. 2 lines 20-62 and col. 4 lines 50-67, wherein the restricted device has to have a detection unit to detect the ultrasound control signal in order to mute or turn off the device); and inherently teaches a stop control unit that stops the radio communication unit from performing all radio communication when the detection unit detects the light wave having the predetermined frequency (col. 5 line 60 – col. 6 line 3, wherein the restricted device may be completely turned off which means the radio communication unit has to be stopped from performing all radio communication).

However, Lipovski fails to teach the light wave having a predetermined flicker frequency.

It is an admitted prior art that flicker frequency is well known in the art and that a skilled person in the art would understand the benefit of using a flicker frequency.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lipovski's system to include the light wave having a predetermined flicker frequency, as taught by admitted prior art, for the advantage of adapting the right frequency.

Considering claim 8, Lipovski further teaches the light wave includes an electromagnetic wave (col. 2 lines 50-62).

Considering claim 9, Lipovski further teaches the electromagnetic wave has a wave frequency defined as light (infrared, col. 2 lines 50-62).

Considering claim 10, Lipovski further teaches the electromagnetic wave has a wave frequency defined as infrared (infrared, col. 2 lines 50-62).

Considering claim 11, Lipovski teaches the light wave includes an ultrasonic wave ([0018]).

5. Claims 1-6 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 7,142,877 (Lipovski) and further in view of US Patent No. 6,985,729 (Fujii) and admitted prior art.

Considering claim 1, Lipovski teaches a portable communication apparatus (restricted device 101 – figure 1, col. 2 lines 20-49), comprising: inherently teaches a radio communication unit that performs communication over a radio wave (restricted device 101 – figure 1, col. 2 lines 20-49 and col. 1 lines 45-54, where the restricted device has to have a radio communication unit to receive radio wave); inherently teaches a detection unit that performs communication over a light wave, that is not a radio wave, having a predetermined frequency in a predetermined area (control signal 102 – figure 1, col. 2 lines 20-62 and col. 4 lines 50-67, wherein the restricted device has to have a detection unit to detect the ultrasound control signal in order to mute or

turn off the device); and inherently teaches a stop control unit that stops the radio communication unit from performing all radio communication during a period of time (col. 5 line 60 – col. 6 line 3, wherein the restricted device may be completely turned off which means the radio communication unit has to be stopped from performing all radio communication). However, Lipovski fails to teach a notification unit that notifies a user of the portable communication apparatus, the notification indicating that the portable communication apparatus is present in the predetermined area.

In an analogous art, Fujii teaches a notification unit that notifies a user of the portable communication apparatus, the notification indicating that the portable communication apparatus is present in the predetermined area (col. 18 lines 32-39).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lipovski's system to include a notification unit that notifies a user of the portable communication apparatus, the notification indicating that the portable communication apparatus is present in the predetermined area, as taught by Fujii, for the advantage of allowing the user to make selections.

However, the combined system of Lipovski and Fujii fails to teach the light wave having a predetermined flicker frequency.

It is an admitted prior art that flicker frequency is well known in the art and that a skilled person in the art would understand the benefit of using a flicker frequency.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lipovski and Fujii to include the

light wave having a predetermined flicker frequency, as taught by admitted prior art, for the advantage of adapting the right frequency.

Considering claim 12, Lipovski teaches a portable communication apparatus (restricted device 101 – figure 1, col. 2 lines 20-49), comprising: inherently teaches a radio communication unit that performs communication over a radio wave (restricted device 101 – figure 1, col. 2 lines 20-49 and col. 1 lines 45-54, where the restricted device has to have a radio communication unit to receive radio wave); inherently teaches a detection unit that performs communication over a light wave, that is not a radio wave, having a predetermined frequency in a predetermined area (control signal 102 – figure 1, col. 2 lines 20-62 and col. 4 lines 50-67, wherein the restricted device has to have a detection unit to detect the ultrasound control signal in order to mute or turn off the device); and inherently teaches a stop control unit that stops the radio communication unit from performing all radio communication during a period of time (col. 5 line 60 – col. 6 line 3, wherein the restricted device may be completely turned off which means the radio communication unit has to be stopped from performing all radio communication). However, Lipovski fails to teach a notification unit that notifies a user of the portable communication apparatus, the notification indicating that the portable communication apparatus is present in the predetermined area and stops the connection according to an instruction from the user.

In an analogous art, Fujii teaches a notification unit that notifies a user of the portable communication apparatus, the notification indicating that the portable

communication apparatus is present in the predetermined area (col. 18 lines 32-39) and stops the connection according to an instruction from the user (col. 9 lines 10-13).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lipovski's system to include a notification unit that notifies a user of the portable communication apparatus, the notification indicating that the portable communication apparatus is present in the predetermined area and stops the connection according to an instruction from the user, as taught by Fujii, for the advantage of allowing the user to make selections.

However, the combined system of Lipovski and Fujii fails to teach the light wave having a predetermined flicker frequency.

It is an admitted prior art that flicker frequency is well known in the art and that a skilled person in the art would understand the benefit of using a flicker frequency.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lipovski and Fujii to include the light wave having a predetermined flicker frequency, as taught by admitted prior art, for the advantage of adapting the right frequency.

Considering claim 2, Lipovski teaches the system as described above. However, Lipovski fails to teach the stop control unit receives an instruction from the user for a predetermined period after the notification is notified.

In an analogous art, Fujii teaches the stop control unit receives an instruction from the user for a predetermined period after the notification is notified (col. 9 lines 10-13).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Lipovski's system to include the stop control unit receives an instruction from the user for a predetermined period after the notification is notified, as taught by Fujii, for the advantage of allowing the user to make selections.

Considering claims 3 and 13, Lipovski further teaches the light wave includes an electromagnetic wave (col. 2 lines 50-62).

Considering claims 4 and 14, Lipovski further teaches the electromagnetic wave has a wave frequency defined as light (infrared, col. 2 lines 50-62).

Considering claims 5 and 15, Lipovski further teaches the electromagnetic wave has a wave frequency defined as infrared (infrared, col. 2 lines 50-62).

Considering claims 6 and 16, Lipovski teaches the light wave includes an ultrasonic wave ([0018]).

Considering claim 17, Lipovski teaches a stop cancellation unit that allows the radio communication unit to perform the communication function when the detection unit

does not detect the light wave after the communication function is stopped (col. 5 line 60 - col. 6 line 3).

6. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 7,142,877 (Lipovski), US Patent No. 6,985,729 (Fujii) and admitted prior art as applied to claim 12 above, and further in view of US Patent No. 6,782,266 Baer et al. (Baer).

Considering claim 18, the combined system of Lipovski, Fujii and the admitted prior art teaches the system as described above. However, the combined system fails to disclose a storage unit that receives information to be transmitted over the radio wave after the stop cancellation unit allows the radio communication unit to perform the communication function, and that stores the information.

In an analogous art, Baer teaches a storage unit that receives information to be transmitted over the radio wave after the stop cancellation unit allows the radio communication unit to perform the communication function, and that stores the information (memory 156 – figure 1, col. 4 lines 54-61).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lipovski, Fujii and admitted prior art to include a storage unit that receives information to be transmitted over the radio wave after the stop cancellation unit allows the radio communication unit to perform the communication function, and that stores the information, as taught by Baer, for the advantage of storing information.

Considering claim 19, the combined system of Lipovski, Fujii and the admitted prior art teaches the system as described above. However, the combined system fails to disclose an alternative communication unit that holds alternative communication over a medium other than the radio wave when the communication function is stopped.

In an analogous art, Baer teaches an alternative communication unit that holds alternative communication over a medium other than the radio wave when the communication function is stopped (second transceiver 152 – figure 3, col. 5 lines 35-49).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lipovski, Fujii and the admitted prior art to include an alternative communication unit that holds alternative communication over a medium other than the radio wave when the communication function is stopped, as taught by Baer, for the advantage of providing an alternate communication method.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 7,142,877 (Lipovski), US Patent No. 6,985,729 (Fujii) and admitted prior art as applied to claim 17 above, and further in view of US Patent No. 6,760,605 Vannel et al. (Vannel).

Considering claim 20, the combined system of Lipovski, Fujii and the admitted prior art teaches the system as described above. However, the combined system fails to disclose restarting the communication function.

In an analogous art, Vannel teaches restarting the communication function (col. 5 lines 28-31).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the combined system of Lipovski, Fujii and the admitted prior art to include restarting the communication function, as taught by Vannel, for the advantage of getting the system in default mode (col. 5 lines 28-31).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Au whose telephone number is (571) 272-2822. The examiner can normally be reached on 8am-5pm Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent P. Harper can be reached on (571) 272-7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VINCENT P. HARPER/
Supervisory Patent Examiner, Art Unit 2617

/Gary Au/
Examiner, Art Unit 2617